

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:06-cr-77-01

v.

HONORABLE PAUL L. MALONEY

DENNIS LEE ASH

Defendant.

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MEMORANDUM OPINION AND ORDER

Defendant Dennis Lee Ash has filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine) and a motion for appointment of counsel.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 706 and 711 of the United States Sentencing Guidelines modified the Drug Quantity Table with regard to cocaine base (crack cocaine). These modifications were made retroactive effective March 8, 2008. U.S.S.G. § 1B1.10(c).

Defendant was given two 60 month consecutive sentences. Defendant was sentenced to the mandatory minimum required by statute of 60 months in custody for his crack cocaine conviction, followed by a 60 month sentence for an 18 U.S.C. § 924(c) conviction. Absent an appropriate motion filed by the Government, the Court has no authority to reduce a sentence

below the mandatory minimum. Accordingly, the amendments are of no assistance to the defendant. Accordingly,

IT IS HEREBY ORDERED that Defendant Dennis Lee Ash's motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) (Dkt. #46) is **DENIED**.

Date: October 26, 2009

/s/ Paul L. Maloney

Paul L. Maloney
Chief United States District Judge